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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,185	01/16/2002	Masakatsu Kondo	020015	2846

23850 7590 12/03/2004

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EXAMINER

WEEKS, GLORIA R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/046,185

Applicant(s)

KONDO ET AL.

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/03/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

1. This action is in response to Applicants' amendment received on August 16, 2004.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being anticipated by Rogalski et al. (USPN 5,964,687) in view of Togi et al. (USPN 5,272,855).

In reference to claims 6-8, Rogalski et al. discloses a container plug attaching device for attaching a plug (28) having a flange (54) to a container (16), the device including an anvil (12) and a sealing member (62) which cooperate to clamp therebetween for sealing the container edge portion (22) and the flange (54) by pressing, the container plug attaching device comprising: a

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rotary shaft (58) carrying the anvil (12) extending radially therefrom and carrying a plug-engaging projection (52) projecting from a clamping face (50) of the anvil (12); drive means (56) operative to rotate the rotary shaft (58) on an intermittent basis, stopping the anvil (12) at a sealing position with respect to the container (16) outlet opening and opposite the sealing member (62); supply means for supplying plugs (28) to the anvil (12) including a plug transport chute (46) and reciprocable delivery means (40) operable in timed sequence with rotation of the rotary shaft (58) to transfer a plug (28) to the plug-engaging projection (52) of the anvil (12) during movement of the anvil (12) toward the sealing position, the chute (46) having a delivery opening (column 3, lines 16-21) disposed adjacent head (44) of a reciprocating plug transfer member (40) and being disposed intermediate the plug-engaging projection (52) on the anvil (12) when the anvil (12) is rotatably disposed in a plug-receiving position adjacent the delivery opening of the chute (46), distance between the clamping face of the anvil and the path of movement on the downstream side of the suction face of the plug transfer member as the clamping face is moved toward the path is substantially equal to the height of the plug; means (42) for reciprocatively extending the head (44) of the transfer member (40) through the opening of the chute (46) to the anvil projection (52); and means (60) actuatable when the anvil (12) is in the sealing position for operating the sealing member (62) to attach the plug (28) to the container (16); a container transport conveyor (14) provided below the rotary shaft (58) and extending in a direction transverse to the rotary shaft (58; figure 2).

Rogalski does not disclose the use of a plug transfer mechanism having a suction face. Togi et al. teaches a container plug attaching device having a plug transfer mechanism (9) with a suction face with an inclined shape. It would have been obvious to one having ordinary skill in

the art at the time of the invention to modify the plug transfer mechanism of Rogalski to include the inclined suction face of Togi et al. for the purpose of securely transferring positioning the plug on the container

*Response to Arguments*

5. Applicant's arguments with respect to claims 6-8 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks  
Examiner  
Art Unit 3721

  
grw

November 30, 2004

  
SCOTT A. SMITH  
PRIMARY EXAMINER